

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**IN RE METHYL TERTIARY BUTYL ETHER
PRODUCTS LIABILITY LITIGATION**

This document relates to:

City of New York, et al. v. Amerada Hess Corporation, et al., No. 04 Civ. 3417 (SAS)

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

WHEREAS, plaintiffs the City of New York, the New York City Water Board and the New York City Municipal Water Finance Authority (collectively, the “City”) asserted various claims against, among others, Defendants ExxonMobil Corporation, ExxonMobil Oil Corporation and Mobil Corporation (collectively, the “ExxonMobil Defendants” and, together with the City, the “Parties”) in the above matter in relation to a number of drinking water wells located in and around Jamaica, Queens;

WHEREAS, the only defendants remaining in this action are the ExxonMobil Defendants;

WHEREAS, a trial was held before the Court and a jury in 2009 as against the ExxonMobil Defendants with respect to the state law claims concerning 5 of the wells at issue in the litigation (the “Station 6 Wells”), and a verdict was rendered thereon by the jury on October 19, 2009;

WHEREAS, the Parties have agreed that all state law claims asserted against the ExxonMobil Defendants relating to all wells other than the Station 6 Wells should be dismissed, without prejudice;

It is hereby AGREED, STIPULATED and ORDERED that:

1. All of the City's currently remaining state law claims asserted in this litigation, specifically causes of action One through Three and Five through Eight of the City's Fourth Amended Complaint, as they relate to all wells other than the Station 6 Wells, are dismissed, without prejudice, as against the ExxonMobil Defendants pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, effective upon entry of judgment by the Court as to the verdict rendered by the jury on October 19, 2009 regarding the Station 6 Wells.

2. The dismissed claims are separable from the Station 6 Wells because the operative facts on which they are based differ from those on which the City's claims relating to the Station 6 Wells were based.

3. The City shall not replead any dismissed claims in this action, including those claims previously dismissed as to all wells (i.e., Counts Four and Nine of the City's Fourth Amended Complaint) by the City.

4. If after the conclusion of any appeals, any of the City's claims related to the Station 6 Wells are dismissed because they are held preempted by federal law, or any other holding is made that would effectively bar the City's ability to assert its state law claims, the City shall not commence or maintain an action asserting such state law claims with respect to any other drinking water wells at issue in this litigation.

5. The City's Tenth cause of action in its Fourth Amended Complaint concerning the Toxic Substances Control Act is stayed, effective upon entry of judgment by the Court as to the verdict rendered by the jury on October 19, 2009 regarding the Station 6 Wells, and pending the conclusion of any appeals of that judgment.

New York, New York

Dated: March 22, 2010

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
100 Church Street
New York, New York 10007
Tel. (212) 788-1578

/s/ VICTOR M. SHER
VICTOR M. SHER (pro hac vice)
TODD E. ROBINS (pro hac vice)
NICHOLAS G. CAMPINS (pro hac vice)
MARNIE E. RIDDLE (pro hac vice)
SHER LEFF LLP
450 Mission Street, Suite 400
San Francisco, CA 94105
(415) 348-8300

Attorneys for Plaintiffs the City of New York,
the New York City Water Board
and the New York City Municipal Water
Finance Authority

James W. Quinn
David J. Lender
Theodore E. Tsekerides
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Tel. (212) 310-8000
Fax (212) 310-8007

- and -

Peter John Sacripanti
James A. Pardo
Stephen J. Riccardulli
Lisa A. Gerson
McDermott Will & Emery LLP
340 Madison Avenue
New York, New York 10017-4613
Tel. (212) 547-5400
Fax (212) 547-5444

Counsel for Defendants ExxonMobil
Corporation, ExxonMobil Oil Corporation
and Mobil Corporation

SO ORDERED.

Shira A. Scheindlin
U.S.D.J.

New York, New York

Dated: March 22, 2010

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
100 Church Street
New York, New York 10007
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MARNIE E. RIDDLE (pro hac vice)
SHER LEFF LLP
450 Mission Street, Suite 400
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(415) 348-8300

Attorneys for Plaintiffs the City of New York,
the New York City Water Board
and the New York City Municipal Water
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Theodore E. Tsekerides

James W. Quinn
David J. Lender
Theodore E. Tsekerides
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Tel. (212) 310-8000
Fax (212) 310-8007

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James A. Pardo
Stephen J. Riccardulli
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McDermott Will & Emery LLP
340 Madison Avenue
New York, New York 10017-4613
Tel. (212) 547-5400
Fax (212) 547-5444

Counsel for Defendants ExxonMobil
Corporation, ExxonMobil Oil Corporation
and Mobil Corporation

SO ORDERED.

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